



Legislative Bulletin.....February 13, 2007

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H.Con.Res. 63—Disapproving of the decision of the President announced on January 10, 2007, to deploy more than 20,000 additional United States combat troops to Iraq

Summary of the Bills Under Consideration Today:

Total Number of New Government Programs: 0

Total Cost of Discretionary Authorizations: \$0

Effect on Revenue: \$0

Total Change in Mandatory Spending: \$0

Total New State & Local Government Mandates: 0

Total New Private Sector Mandates: 0

Number of Bills Without Committee Reports: 0

Number of Reported Bills that Don't Cite Specific Clauses of Constitutional Authority: 0

H.Con.Res. 63—Disapproving of the decision of the President announced on January 10, 2007, to deploy more than 20,000 additional United States combat troops to Iraq (*Skelton, D-MO*)

Order of Business: The resolution is scheduled to be considered starting on Tuesday, February 13th, subject to a closed rule (H.Res. 157). The rule provides for general debate:

- not beyond midnight on Tuesday, February 13, 2007, equally divided and controlled by the Majority Leader and the Minority Leader or their designees;
- not beyond midnight on Wednesday, February 14, 2007, equally divided and controlled by the Majority Leader and the Minority Leader or their designees; and

- lasting 12 hours on Thursday, February 15, 2007, equally divided and controlled by the Majority Leader and the Minority Leader or their designees.

The rule also provides for one motion to recommit **without** instructions. Further, the rule deems the previous question as ordered to final adoption without intervening motion or demand for division of the question.

In other words, the Minority will not be allowed to offer any amendment at any time during the consideration of this resolution.

On each request of the Majority Leader or his designee, after consultation with the Minority Leader, it shall be in order at any time to debate the resolution for an additional hour, equally divided and controlled by the Majority Leader and Minority Leader or their designees.

Summary: H.Con.Res. 63 would resolve that:

- “Congress and the American people will continue to support and protect the members of the United States Armed Forces who are serving or who have served bravely and honorably in Iraq; and
- “Congress disapproves of the decision of President George W. Bush announced on January 10, 2007, to deploy more than 20,000 additional United States combat troops to Iraq.”

Related Legislation: Several RSC Members have recently introduced legislation relating to the ongoing war in Iraq and the Commander-in-Chief’s role in such war. For example:

- **Rep. Sam Johnson (R-TX)** has introduced H.R. 511, “to pledge the faithful support of Congress to members of the United States Armed Forces serving in harm’s way.” The bill states several findings about the congressional authorizations of military action in the Middle East and reaffirms that “Congress will not cut off or restrict funding for units and members of the Armed Forces that the Commander in Chief has deployed in harm’s way in support of Operation Iraqi Freedom and Operation Enduring Freedom.”
- **Rep. Steve King (R-IA)** and **Rep. Trent Franks (R-AZ)** have introduced H.Res. 147, “expressing the sense of the House of Representatives that the United States is committed to victory in the global War on Terror and committed to victory on that battlefield in the War on Terror that is Iraq.” The resolution states a variety of findings regarding the necessity that Iraq come to “govern, sustain, and defend itself.” It then resolves that “the consequences of failure in Iraq pose a serious threat to security of the American people and the security and economic interests of the United States,” and “the House of Representatives supports the members of the United States Armed Forces and their mission in Iraq and in the global War on Terror and is

committed to providing the Armed Forces with the moral and tangible support necessary to complete the mission and secure victory.”

- **Rep. John Shadegg (R-AZ)** has introduced H.Res. 150, “expressing the sense of the House of Representatives that the Commander of Multinational Forces-Iraq and all United States personnel under his command should receive from Congress the full support necessary to carry out the United States mission in Iraq.” The resolution would assert that “Iraqi political leaders must show visible progress toward meeting specific benchmarks.” 11 benchmarks are then listed in the resolution and the United States Ambassador to Iraq and the Commander of Multinational Forces-Iraq are urged to report each month to Congress on the progress being made by Iraqis toward achieving the benchmarks. The resolution gives no benchmark instructions to the President.
- **Rep. Mike Pence (R-IN)** has introduced H.Con.Res. 64, “expressing the sense of Congress that no funds should be cut off or reduced for American troops in the field which would result in undermining their safety or their ability to complete their assigned missions.” The resolution contains several findings about the President’s and Congress’ separate powers in wartime.

Additional Background: On January 10, 2007, President Bush announced to the nation a new strategy for the war in Iraq, which includes sending approximately 20,000 more American troops (primarily to Baghdad) to work alongside the Iraqi Army and National Police to quell the sectarian violence in and around Baghdad. Specifically, President Bush defined the new mission, commonly known as “the surge,” as follows: “to help Iraqis clear and secure neighborhoods, to help them protect the local population, and to help ensure that the Iraqi forces left behind are capable of providing the security that Baghdad needs.” The additional troop levels are designed to help hold the neighborhoods once they have been cleared of insurgents. In the past, as the President has pointed out, American troops would help clear Baghdad neighborhoods but then would have to move on to other areas because of insufficient troop levels (thus allowing insurgents to return to previously cleared neighborhoods).

To read the President’s announcement of the new strategy in Iraq, visit this webpage:
<http://www.whitehouse.gov/news/releases/2007/01/20070110-7.html>.

The bi-partisan Iraq Study Group, co-chaired by former Secretary of State James A. Baker and former Congressman Lee Hamilton (D-IN), on page 50 of its report, after arguing that a 100,000-troop, long-term increase is undesirable, stated that, “We could, however, support a shorter redeployment or surge of American combat forces to stabilize Baghdad, or to speed up the training and equipping mission, if the U.S. commander in Iraq determines that such steps would be effective.”
http://www.usip.org/isg/iraq_study_group_report/report/1206/iraq_study_group_report.pdf.

The new Multi-National Force Commander-Iraq, General David Petraeus, and the new Combatant Commander of Central Command, Admiral William Fallon, have endorsed the

surge: http://www.washingtonpost.com/wp-dyn/content/article/2007/01/23/AR2007012300633_2.html.

For more information on the Iraq Study Group, visit this website: <http://www.usip.org/isg/>.

On September 14, 2001, Congress passed S.J.Res. 23 (Public Law 107-40), authorizing the use of military force in Afghanistan. Specifically, the resolution authorized the President to “use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons.” The resolution passed by unanimous consent in the House and by 98-0 in the Senate:

http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=107&session=1&vote=00281.

On October 10, 2002, the House passed H.J.Res. 114 (Public Law 107-243), authorizing the use of military force in Iraq, by a vote of 296-133: <http://clerk.house.gov/cgi-bin/vote.asp?year=2002&rollnumber=455>. The following day, the Senate passed the same resolution by a vote of 77-23:

http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=107&session=2&vote=00237. Specifically, the resolution authorized the President to “use the Armed Forces of the United States as he determines to be necessary and appropriate in order to defend the national security of the United States against the continuing threat posed by Iraq and enforce all relevant United Nations Security Council resolutions regarding Iraq.”

In the cases of both resolutions above, Congress noted that the resolutions were “intended to constitute specific statutory authorization within the meaning of section 5(b) of the War Powers Resolution.”

The War Powers Resolution (Public Law 93-148; November 7, 1973) affirms that “the constitutional powers of the President as Commander-in-Chief to introduce United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, are exercised only pursuant to (1) a declaration of war, (2) specific statutory authorization, or (3) a national emergency created by attack upon the United States, its territories or possessions, or its armed forces.” Section 5(b) of the War Powers Resolution asserts that the President would have to terminate any such introduction of Armed Forces within 60 days (subject to one 30-day extension), if Congress:

- does not declare war or enact a specific authorization for such use of United States Armed Forces;
- does not extend by law such sixty-day period; or
- is not physically able to meet as a result of an armed attack upon the United States.

To read the full text of the War Powers Resolution, visit this webpage:

<http://www.yale.edu/lawweb/avalon/warpower.htm>.

Article II, Section 2, Clause 1 of the U.S. Constitution states that “The President shall be Commander in Chief of the Army and Navy of the United States....” To read a thoughtful analysis of the President’s and Congress’ powers during wartime, see this paper by the Heritage Foundation: <http://www.heritage.org/Research/MiddleEast/wm1347.cfm>.

More than 137,000 members of the U.S. Armed Forces are currently serving in Iraq in some capacity.

For more information on the latest events in the War on Terrorism in the Middle East, visit this webpage: <http://www.defendamerica.mil/>. For talking points on various aspects of the war and the surge, please refer to the documents circulated in recent emails by RSC Communications Director Brad Dayspring, specifically in regards to calls to action on Rep. Sam Johnson’s bill, H.R. 511 (see details above).

RSC Bonus Fact: On December 29, 2006, former Iraqi dictator Saddam Hussein was hanged at the 5th Division intelligence office in Qadhimiya for his role in the 1982 Dujail massacre, in which 148 Iraqis were killed after a failed assassination attempt against the then-Iraqi president. No non-Iraqis were present at the hanging.
<http://www.cnn.com/2006/WORLD/meast/12/29/hussein/index.html>.

Committee Action: The resolution was introduced on February 12, 2007, and referred to the Armed Services and Foreign Affairs Committees, none of which took subsequent public action.

Possible Conservative Concerns: Some conservatives may be concerned that this resolution would undermine the mission of the U.S. and its allies in Iraq, demoralize the troops who face the daily threat of dying in a war zone, unconstitutionally question the authority of the Commander-in-Chief, and embolden America’s enemies, who gain strength from American weaknesses, retreats, and failures.

Administration Position: The Administration opposes this resolution.

Cost to Taxpayers: The resolution would authorize no expenditure.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

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